

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
TIMOTHY EDWARD WRIGHT,) CASE NO. 07-20126 JPK
) Chapter 13
Debtor.)

ORDER FOR HEARING

On October 12, 2007, Attorney Lea P. Shelemey, as counsel for the debtor, filed an Application for Attorney Fees, together with a copy of the notice provided to creditors with respect to that application.

The Application presents an interesting circumstance. The debtor's chapter 13 plan has yet to be approved, and thus no order approving any compensation for debtor's counsel has yet been entered – customarily the order allowing compensation is entered as part of the order confirming a chapter 13 plan, and authorizes compensation for all work done up to the date of the confirmation hearing. The Application does not seek an allowance of compensation for all of counsel's time from the inception of the case to the date of its filing. Rather, and interestingly, the application seeks an allowance of compensation for the amount of time expended from May 9, 2007 through October 10, 2007, stating that the 16 hours of attorney work reflected by the \$2,800 fee charged for that amount of work was exhausted on May 9, and thus the Application seeks compensation for services rendered after this initial 16 hours was exhausted. While perhaps there's nothing wrong with this approach, the Court has never seen it employed and therefore deems it necessary to have a hearing at which the Chapter 13 Trustee's recommendations are taken into account.

Additionally, the form of notice provided to creditors is modeled on LBF. 3A rather than on LBF. 3B. The difference is that when the latter form is used, a copy of the motion accompanies the notice provided to creditors and thus provides creditors with as much

information as is provided by the motion itself as to the subject matter of the motion. In this case, a copy of the motion was not provided to creditors with the notice, and thus in order to determine anything at all about the subject matter of the application it would be necessary for a creditor to obtain a copy of the application from either the Court or from debtor's counsel. That is not the purpose of the LBF. 3A: the form itself requires that the notice itself "briefly and specifically state what you are asking the Court to do", and that it "briefly summarizes the motion." Without detail in the notice itself, creditors are provided with no information as to the relief requested by a motion or an application. The notice utilized in this case is therefore defective.

Given the novel nature of the application, the Court will relieve debtor's counsel from renoticing the motion to all creditors, and will instead provide a copy of this order to all creditors and parties-in-interest in order to provide them with an opportunity to attend the scheduled hearing.

IT IS ORDERED that a hearing will be held on **December 17, 2007, at 1:00 P.M.** with respect to the foregoing Application.

Dated at Hammond, Indiana on November 14, 2007.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee
All Creditors
All Parties-in-Interest